



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
ONE CONGRESS STREET SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

VIA FAX AND VIA FIRST CLASS MAIL

Eurika Durr, Clerk of the Board
Environmental Appeals Board (MC 1103B)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Re: NPDES Appeal Nos. 06-12, 06-13
NPDES Permit No. MA 0004898
Mirant Kendall, LLC

November 21, 2008

Dear Ms. Durr,

Enclosed please find the original of Respondent's Status Report and Motion to Extend Stay of Proceedings in the above-captioned case, with an attached certificate of service. The motion and the certificate of service have also been mailed to the Board and to counsel of record today. In lieu of five additional paper copies for the Board, an electronic copy has been posted to the CDX system.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Fein".

Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114
617-918-1040
Fax: 617-918-0040

cc: Ralph A. Child, Esq., Mintz, Levin, Cohn, Ferris Glovsky and Popeo, P.C.
Peter Shelley, Esq., Conservation Law Foundation
Robert Brown, Esq., Massachusetts Department of Environmental Protection

STATUS REPORT AND GROUNDS FOR EXTENSION OF STAY

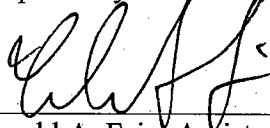
The Region has been working diligently to finalize the permit modification and accompanying response to comments, and is very close to completion. The proceeding raises a number of complex issues and completion of the permitting has required more time than earlier contemplated. The Region expects, however, that it can complete the permit modification and accompanying response to comments by December 18, 2008.

REQUESTED RELIEF

In the interest of judicial economy and to enable the Region to complete the permit modification process contemplated by 40 C.F.R. § 124.19(d), the Region requests that the Board issue an order extending the stay of proceedings. The Region proposes to submit a status report no later than December 18, 2008, advising whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action.

The Region represents that its undersigned counsel has discussed this Status Report and Motion to Extend Stay of Proceedings with counsel for Petitioner Mirant Kendall, LLC, and that such Petitioner assents to the motion.¹

Respectfully submitted,



Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114
617-918-1040
Fax: 617-918-0040
Date: November 21, 2008

Of Counsel:

Richard T. Witt, Attorney-Adviser
Office of General Counsel
U.S. Environmental Protection Agency
Washington, D.C. 20460

¹ The Region provided an advance copy of the status report and motion to counsel for Petitioners Conservation Law Foundation and Charles River Watershed Association but was unable to determine in time whether those Petitioners assent.

In re: Mirant Kendall, LLC
NPDES Appeal Nos. 06-12, 06-13

CERTIFICATE OF SERVICE

I, Ronald A. Fen, hereby certify that copies of the foregoing Respondent's Status Report and Motion to Extend Stay of Proceedings were sent on the 21st day of November 2008, to the following persons in the manner described below:

Original by first class mail
Copy posted to CDX electronic system
Copy by fax

Eurika Durr, Clerk of the Board
Environmental Appeals Board (MC 1103B)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Fax (202) 233-0121

Copy by fax
Copy by e-mail
Copy by first class mail

Peter Shelley, Esq.
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

Fax (617) 350-4030

Copy by fax
Copy by e-mail
Copy by first class mail

Ralph A. Child, Esq.
Mintz, Levin, Cohn, Ferris Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

Fax (617) 542-2241

Signed: November 21, 2008

